



Commonwealth of Kentucky

MASTER AGREEMENT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

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| Doc Description: KET - Multiplexer | | | |
| Doc ID No: MA 758 1000000195 2 | | Proc Folder: 1542617 | |
| Procurement Type: Standard Goods | | | |
| Effective Date: 2009-09-25 | Expiration Date: 2010-09-26 | Not To Exceed Amount | |
| Administered By: Kelly Graves | | Cited Authority: FAP111-35-00-G | |
| Telephone: 859-258-7108 | | Issued By: Sherita Miller | |

Reason For Modification: Administrative modification to allow for ARRA reporting.

VENDOR

Advanced Broadcast Solutions LLC

811 South 192nd Street
Suite 100
SeaTac WA 98148
US

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|-------------|--------------|-------------|
| 1 | Transport Stream Switch Model 2800 2 Ports Enabled | 5 | 0.00 | EA | 7,087.00000 | 0.00 | 0.00 |

Extended Description

Logic Innovations Model TSM-2800- 2

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|-------------|--------------|-------------|
| 2 | Transport Stream Switch Model 2800 4 Ports Enabled | 5 | 0.00 | EA | 8,658.00000 | 0.00 | 0.00 |

Extended Description

Logic Innovations Model TSM-2800-4

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|---|---------------|----------|------------|--------------|--------------|-------------|
| 3 | Transport Stream Switch Model 2800 8 Ports Enabled | 5 | 0.00 | EA | 11,808.00000 | 0.00 | 0.00 |

Extended Description

Logic Innovations Model TSM-2800-8

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|-------------|--------------|-------------|
| 4 | Transport Stream Multiplexer Model 2800 2 Input Ports | 5 | 0.00 | EA | 7,087.00000 | 0.00 | 0.00 |

Extended Description

Logic Innovations Model TSM-2800-2

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|-------------|--------------|-------------|
| 5 | Transport Stream Multiplexer Model 2800 4 Input Ports | 5 | 0.00 | EA | 8,658.00000 | 0.00 | 0.00 |

Extended Description

Extended Description

Logic Innovations Model TSM-2800-4

| Line | CL Description | Delivery Days | Quantity | Unit Issue | Unit Price | Contract Amt | Total Price |
|------|--|---------------|----------|------------|--------------|--------------|-------------|
| 6 | Transport Stream Multiplexer Model 2800 8 Input Ports | 5 | 0.00 | EA | 11,808.00000 | 0.00 | 0.00 |

Extended Description

Logic Innovations Model TSM-2800-8

| | |
|---------------------|------|
| Total Order Amount: | 0.00 |
|---------------------|------|

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**MASTER AGREEMENT FOR
KET Multiplexer
Master Agreement Number:**

MA-758-1000000195

**Advanced Broadcast Solutions, LLC
811 S. 192nd Street, #100
SeaTac, WA 98148**

**Contact Person: Marci Baldwin
(206) 870-0244**

Email: marci@advancedbroadcastsolutions.com

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Terms and Conditions

Master Agreement

Scope of Contract

The Office of Procurement Services issues this Contract to establish a Master Agreement for KET - Multiplexer

Initial Contract Period

The Contract established shall be for the initial period of **one (1) year** from the date of award.

Renewal Clause – Optional Renewal Period

This Contract may be extended at the completion of the initial Contract period for **four (4) additional one-year periods**. This extension must have the written approval of Advanced Broadcast Solutions, LLC and the Office of Procurement Services. If the Contract provides for an optional renewal period, the Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. Advanced Broadcast Solutions, LLC will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

Alternate Brands/Specifications

Unless otherwise specified, brands and specifications referenced in this Contract are meant to establish a minimum standard of quality only.

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Recycle Requirements

The Contractor shall be required to comply with Recycle Requirements for the purchase of goods, supplies, equipment, materials and printing with a minimum recycled content to the extent practicable per 200 KAR 5:330. This regulation can be viewed on the Internet at <<http://www.lrc.state.ky.us/kar/200/005/330.htm>>.

Agencies to be Served

This Contract shall be for use by the following agency of the Commonwealth of Kentucky:

EAHC KY EDUCATIONAL TV - KET

Extending the Contract Use to Other Agencies

The Office of Procurement Services reserves the right, with the consent of the Contractor, to offer the Master Agreement resulting from this Solicitation to other state agencies requiring the product(s) or service(s).

Deliveries

Delivery of the equipment shall be within **five (5)** working days ARO.

The Vendor agrees that when delivery is not made within the contracted due date, one percent (1%) per day will be deducted from the Vendor's invoice for each day the Vendor fails to meet the contracted delivery date.

Basis of Price Revisions

PRICE ADJUSTMENTS: Unless otherwise specified, the prices established by the Contract shall remain **firm for the contract period** subject to the following:

A: Price Increases: A price increase will not be allowed during the first twelve (12) months of the contract. Only one (1) price increase will be allowed during the Contract period. The price increase must be based on industry wide price changes. The Contract holder must request in writing a price increase at least thirty (30) days prior to the effective date, and shall provide firm proof that the price increase(s) is justified. The Office of Procurement Services may request additional information or justification. If the price increase is denied, the Contract holder may withdraw from the Contract without prejudice upon written notice and approval by the Office of Procurement Services. Provided, however, that the

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Vendor must continue service, at the Contract prices, until a new Contract can be established (usually within sixty (60) days).

B: Price Decreases: The Contract price shall be reduced to reflect any industry wide price decreases. The Contract holder is required to furnish the Office of Procurement Services with notice of any price decreases as soon as such decreases are available.

C: Extended Contract Periods: If the Contract provides for an optional renewal period, a price adjustment may be granted at the time the Contract is renewed, subject to price increase justification as required in Paragraph A "Price Increases" as stated above.

Post Contract Agreements

This Contract shall constitute the entire agreement between the State and Advanced Broadcast Solutions, LLC. Unless contractually provided, State agencies utilizing this Contract will not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms this Contract. Any such documents so obtained will be non-binding on the State and agents of the State and will be cause for breach of contract.

Equipment

All equipment must be a new and current model. The Commonwealth recognizes the rapid advancement of technology. If the Contractor can provide new equipment of advanced technology after the award of the Contract, the Commonwealth and the Contractor may choose by mutual agreement to install such equipment. The price of the new technology equipment cannot exceed the cost of the award Contract.

Equipment / Condition

Unless otherwise indicated in the bid, it is understood and agreed that any item offered or shipped on this Contract shall be new and the latest or current year model and be in first class condition. Any unit failing to meet the foregoing requirements shall be returned to the Contractor, at their expense, and replaced with a new unit.

Quantity Basis of Contract – Estimated Quantities

Any and all quantities mentioned in this Contract are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy

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only that quantity needed by its agencies during the term of the Contract. Requirements may exceed the quantities shown and the Contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

Manuals

Instruction and operating manuals shall be furnished for all equipment installed.

Distribution of Literature

Upon request, Advanced Broadcast Solutions, LLC shall furnish State agencies and other public bodies with descriptive literature and service information for items awarded.

Vendor's Report

Advanced Broadcast Solutions, LLC may be asked to furnish the buyer, Office of Procurement Services, a report showing volume which has been sold to the Commonwealth and its using agencies each six (6) months of the contract period. The report will include political subdivisions and university purchases. This report may be the vendor's computer printout sheet or form. This shall apply to all items, which are to become a part of this contract. This report must reference usage by brief description, product number or other format designated by the Office of Procurement Services.

FOB Basis of Shipment – Vendor Responsible

Quotations of unit prices on this Contract shall be F.O.B. Destination Freight Prepaid and Allowed. The Contractor shall be fully responsible for all shipments and freight charges involved to the ordering agency.

Cancellation Clause – 30 Days Notice

The Commonwealth may cancel the Contract established by giving written notice thirty (30) days prior to effective cancellation date. In the event such action is taken, the Contract shall be null and void upon receipt of a Modification from the Office of Procurement Services canceling the contract.

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Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to contract for large requirements by using a separate solicitation.

Service Performance

All services performed under this Contract shall be in accordance with the terms and provisions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

Major deviations of services performed will not be made without the written approval of the Office of Procurement Services. Problems that arise under any aspect of performance should first be resolved between Advanced Broadcast Solutions, LLC and the agency. Either party should refer in writing any such problems and/or disagreements that cannot be resolved to the Office of Procurement Services for settlement.

Addition or Deletion of Items or Services

The Office of Procurement Services reserves the right to add new and similar items, with the consent of the Advanced Broadcast Solutions, LLC, to this Contract. The Office of Procurement Services to effect this change will issue a Contract Modification. Until such time as the Contractor receives a Modification, the Advanced Broadcast Solutions, LLC shall not accept Delivery Orders from any agency referencing such items or services.

Agreement between Parties

The Contractor acknowledges and agrees to be bound by the terms and conditions of this Contract.

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The Contractor agrees that the Contract is the complete and exclusive statement of the agreement between the parties, which supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Contract. It is further agreed between the parties, that any valid modification of contractual agreement must be formalized by issuance of a Contract Modification from the Office of Procurement Services.

Purchase or Sales Agreements, supplied by the Contractor making an offer, in reply to the Contractor, will not be accepted. The only terms and conditions acceptable to the Commonwealth of Kentucky are as outlined in this Contract.

Governmental Restrictions

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this Contractor prior to delivery, it shall be the responsibility of the Contractor to notify the Office of Procurement Services in writing, indicating the specific regulation which requires such alterations. The Commonwealth reserves the right to accept any such alterations, including any subsequent price adjustments, or to cancel the Contract.

Payments

Advanced Broadcast Solutions, LLC shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods or the Contractor's invoice in accordance with KRS 45.453 and KRS 45.454.

Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at Advanced Broadcast

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Solutions, LLC's expense.

Subcontracts

The Contractor is permitted to make subcontract(s) with any other party for furnishing any of the work or services herein. The Contractor shall be solely responsible for performance of the entire Contract whether or not subcontractors are used. The Commonwealth shall not be involved in the relationship between the prime contractor and the subcontractor. Any issues that arise as a result of this relationship shall be resolved by the prime contractor.

All references to the Contractor shall be construed to encompass both the Contractor and any subcontractors of the Contractor.

Federal Tax Exempt Purchases by the Commonwealth of Kentucky

Contracts Direct With Manufacturer: In the event a manufacturer bids direct and is awarded a Contract, the Office of Procurement Services shall request the Contractor to furnish evidence of registration with the U.S. Internal Revenue Service. This registration shall be in accordance with the "Temporary Rules, 1958 Excise Tax Act". After such registration, individual Excise Tax Exemption Certificates are not necessary on each individual order issued against the contract by the Office of Procurement Services. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Contract With Other Than Manufacturer: If the Contractor is other than the manufacturer, the Office of Procurement Services will furnish a Tax Exemption Certificate with each individual order issued against this contract. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Governing Law

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky and any litigation with respect to this Contract shall be brought in state or federal court in **Franklin County, Kentucky**.

ALL PROVISIONS OF SOLICITATION (RFB-758-1000000191) SHALL BE PART OF ANY RESULTING MASTER AGREEMENT

ARRA

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PREAMBLE

To the extent that this contract or grant involves the use of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 ("ARRA") funds, the following terms and conditions apply.

For the purposes of applying these terms and conditions, the following definitions apply:

- I. A "prime recipient" is a non-Federal entity that receives Recovery Act funding as Federal awards in the form of grants, loans, or cooperative agreements directly from the Federal government.*
- II. A "subrecipient" is a non-Federal entity that expends Federal awards received from another entity to carry out a Federal program but does not include an individual who is a beneficiary of such a program.*
- III. A "vendor" is defined as a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. Prime recipients or subrecipients may purchase goods or services needed to carry out the project or program from vendors. Vendors are not awarded funds by the same means as subrecipients and are not subject to the terms and conditions of the Federal financial assistance award.*

The vendor or subrecipient specifically agrees to comply with each of the terms and conditions contained herein.

The vendor or subrecipient understand and acknowledges that the federal stimulus process is evolving and that new requirements for ARRA compliance may still be forthcoming from federal government and the Commonwealth of Kentucky. Accordingly, the subrecipient/vendor specifically agrees that both it and any subgrantees/subcontractors will comply with all such requirements during the contract period.

AVAILABILITY OF FUNDING

Vendor/subrecipient agrees that programs supported with temporary federal funds made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, will not be continued with state financed appropriations once the temporary federal funds are expended.

BUY AMERICAN REQUIREMENT (IF APPLICABLE)

Vendor/subrecipient agrees that in accordance with ARRA, Section 1605, neither

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vendor/subrecipient or its subcontractors/subgrantees will use ARRA funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The vendor/subrecipient understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.

CONFLICTING REQUIREMENTS

Vendor/subrecipient agrees that, to the extent ARRA requirements conflict with Commonwealth of Kentucky requirements, the ARRA requirements shall control.

FALSE CLAIMS ACT

Vendor/subrecipient agrees that it shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subgrantee, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

ENFORCEABILITY

Vendor/subrecipient agrees that if the vendor/subrecipient or one of its subcontractors/subgrantees fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the Commonwealth of Kentucky may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the Commonwealth of Kentucky under all applicable state and federal laws.

INSPECTION OF RECORDS

Vendor/subrecipient agrees that it shall permit the United States Comptroller General or his representative or the appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of vendor/subrecipient or any of its subcontractors/subgrantees regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

JOB POSTING REQUIREMENTS

Vendors/subrecipients who receive ARRA funded contracts are required to post jobs created and retained as a result of stimulus funds on the Commonwealth of Kentucky

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Job Bank at: <https://e3.ky.gov/>

PROHIBITION ON USE OF ARRA FUNDS

Vendor/subrecipient agrees that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

REPORTING REQUIREMENTS

Pursuant to Section 1512 of the ARRA, entities receiving ARRA funds must submit reports to the federal government no later than ten (10) calendar days after the end of each calendar quarter. This report must contain the information outlined below.

Accordingly, each subrecipient agrees to provide the Commonwealth with the following information in a timely manner:

- a. Subrecipient's DUNS number;
- b. Award number or other identifying number assigned by the prime recipient;
- c. The total amount of ARRA funds received by subrecipient during the reporting period;
- d. The amount of ARRA funds that were expended or obligated during the reporting period;
- e. A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
 - i. the name of the project or activity;
 - ii. a description of the project or activity;
 - iii. an evaluation of the completion status of the project or activity; and
 - iv. an estimate of the number of jobs created and the number of jobs retained by the project or activity;
 - v. the primary place of performance of the subaward, including the city, state, congressional district and country;
 - vi. The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; and 2) \$25M or more in annual gross revenue from Federal awards.
- f. Any other information reasonably requested by the Commonwealth or required by state or federal law or regulation.

Each vendor must supply their DUNS number and an estimate of the number of jobs created and number of jobs retained as a result of the award of ARRA funds.

OMB Memorandum M-09-21 dated June 22, 2009 outlines the standard data elements and federal implementation guidance for use in complying with the reporting

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requirements under Section 1512 of the ARRA.

SEGREGATION OF FUNDS

Vendor/subrecipient agrees that it shall segregate obligations and expenditures of Recovery Act funds from other funding. No part of funds made available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be comingled with any other funds or used for a purpose other than that of making payments for costs allowable under the ARRA.

SUBCONTRACTOR/SUBGRANTEE REQUIREMENTS

Vendor/subrecipient agrees that it shall include these standard terms and conditions, including this requirement, in any of its subcontracts or subgrants in connection with projects funded in whole or in part with funds available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

WAGE REQUIREMENTS (IF APPLICABLE)

Vendor/subrecipient agrees that, in accordance with Section 1606 of the ARRA, both it and its subcontractors shall fully comply with this section in that, notwithstanding any other provision of law, and in a manner consistent with the other provisions of the ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40 of the United States Code. The Secretary of Labor's determination regarding the prevailing wages applicable in the Commonwealth of Kentucky are located at: <http://www.gpo.gov/davisbacon/ky.html>

WHISTLEBLOWER PROTECTION

Vendor/subrecipient agrees that both it and its subcontractors/subgrantees shall comply with Section 1553 of the ARRA, which prohibits all non-federal Vendor/subrecipients of ARRA funds, including the Commonwealth of Kentucky, and all contractors and grantees of the Commonwealth of Kentucky, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. Vendor/subrecipient agrees that it and its subcontractors/subgrantees shall post notice of the

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rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.